

State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

RESEARCH APPENDIX - **PLEASE DO NOT REMOVE FROM DRAFTING FILE**

Date Transfer Requested: 10/26/2004 (Per: ARG)



☞ The 2003 drafting file for LRB 03-4672

has been transferred to the drafting file for

2005 LRB 05-0167

☞ This cover sheet, the final request sheet, and the final version of the 2003 draft were copied on yellow paper, and returned to the original 2003 drafting file.

☞ The attached 2003 draft was incorporated into the new 2005 draft listed above. For research purposes, this cover sheet and the complete drafting file were transferred, as a separate appendix, to the 2005 drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.

2003 DRAFTING REQUEST**Bill**Received: **07/30/2004**Received By: **agary**Wanted: **As time permits**

Identical to LRB:

For: **Jerry Petrowski (608) 266-1182**By/Representing: **Katie Scott (aide)**This file may be shown to any legislator: **NO**Drafter: **agary**

May Contact:

Addl. Drafters:

Subject: **Transportation - traffic laws**
Transportation - motor vehiclesExtra Copies: **PJH**Submit via email: **YES**Requester's email: **Rep.Petrowski@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Safety belts and child passenger restraints

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	agary 08/13/2004	kfollett 08/18/2004					S&L
/P1			jfrantze 08/19/2004		lemery 08/19/2004		

LRB-4672

08/19/2004 11:12:57 AM

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FE Sent For:

<END>

07/30/2004 10:26:53 AM

Page 1

2003 DRAFTING REQUEST**Bill**

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1?	agary	1P16/8/18	7/8/19	7/8/19			

FE Sent For:

<END>

Gary, Aaron

From: Scott, Katie
Sent: Thursday, July 29, 2004 4:54 PM
To: Gary, Aaron
Subject: Bill Draft

Hi Aaron,

Could we have AB 724 from last session redrafted with Amendments 1 and 2 included?

I have attached for you a chart comparing current law to the changes we would like to make, in case this is helpful to you.

Thank you,

Katie
Representative Jerry Petrowski



Child Passenger
Safety Bill Pr...

- voice mail from Katie - if conflict b/w
AA1 & AA2, AA1 takes precedence

ASSEMBLY BILL 724 (LRB -1094)

An Act to repeal 347.50 (4); to renumber and amend 347.48 (4) (a) 1., 347.48 (4) (a) 2. and 347.48 (4) (a) 3.; to amend 343.32 (2) (bt), 347.48 (2m) (c), 347.48 (2m) (d), 347.48 (4) (b), 347.48 (4) (d), 347.487 (title), 347.50 (1), 347.50 (3) (a) and 347.50 (3) (b); and to create 20.395 (5) (gq), 25.40 (1) (ik), 59.25 (3) (jm), 85.56, 347.48 (4) (ag), 347.48 (4) (as), 347.482 and 347.50 (3) (b) 3. of the statutes; relating to: child safety restraint systems, seating positions, and safety belt use requirements in motor vehicles, creating a Child Safety Restraint System Program, granting rule-making authority, making an appropriation, and providing a penalty. (FE)

2004

01-27.	A.	Introduced by Representatives Petrowski, Wasserman, Berceau, Bies, Kreibich, McCormick, Molepske, Albers, J. Lehman, Gunderson, Suder, Freese, Kerkman, Shilling, Sinicki and Van Roy; cosponsored by Senators Roessler, Lazich, Robson, Risser and Wirsch.	
01-05.	A.	Read first time and referred to committee on Highway Safety	589
01-07.	A.	Fiscal estimate received.	
01-07.	A.	Public hearing held.	
01-21.	A.	Executive action taken.	
01-21.	A.	Assembly amendment 1 offered by committee on Highway Safety (LRB a1978)	631
01-27.	A.	Report Assembly Amendment 1 adoption recommended by committee on Highway Safety, Ayes 8, Noes 0	643
01-27.	A.	Report passage as amended recommended by committee on Highway Safety, Ayes 7, Noes 1	643
01-27.	A.	Referred to joint committee on Finance	643
02-09.	A.	Assembly amendment 2 offered by Representative Musser (LRB a2048)	690
02-09.	A.	Senator Lazich withdrawn as a cosponsor	694
03-31.	A.	Failed to pass pursuant to Senate Joint Resolution 1	912

2003 ASSEMBLY BILL 724

January 5, 2004 - Introduced by Representatives PETROWSKI, WASSERMAN, BERCEAU, BIES, KREIBICH, MCCORMICK, MOLEPSKE, ALBERS, J. LEHMAN, GUNDERSON, SUDER, FREESE, KERKMAN, SHILLING, SINICKI and VAN ROY, cosponsored by Senators ROESSLER, LAZICH, ROBSON, RISSE and WIRCH. Referred to Committee on Highway Safety.

1 **AN ACT to repeal 347.50 (4); to renumber and amend 347.48 (4) (a) 1., 347.48**
2 **(4) (a) 2. and 347.48 (4) (a) 3.; to amend 343.32 (2) (bt), 347.48 (2m) (c), 347.48**
3 **(2m) (d), 347.48 (4) (b), 347.48 (4) (d), 347.487 (title), 347.50 (1), 347.50 (3) (a)**
4 **and 347.50 (3) (b); and to create 20.395 (5) (gq), 25.40 (1) (ik), 59.25 (3) (jm),**
5 **85.56, 347.48 (4) (ag), 347.48 (4) (as), 347.482 and 347.50 (3) (b) 3. of the**
6 **statutes; relating to: child safety restraint systems, seating positions, and**
7 **safety belt use requirements in motor vehicles, creating a Child Safety**
8 **Restraint System Program, granting rule-making authority, making an**
9 **appropriation, and providing a penalty.**

Analysis by the Legislative Reference Bureau

Under current law, with certain exceptions, no child under the age of four years may be transported in a motor vehicle unless that child is properly restrained in a child safety restraint system (child safety seat), and no child between the ages of four and eight years may be transported in a motor vehicle unless that child is properly restrained in a child safety seat or by a safety belt (seat belt). A person who fails to comply with the child safety seat requirement is subject to a forfeiture of not less than \$30 nor more than \$75, but no forfeiture may be assessed if the vehicle was not

ASSEMBLY BILL 724

equipped with a child safety seat at the time of the violation and the person provides proof that, within 30 days after the violation, a child safety seat was purchased or leased and properly installed in the vehicle. A person who fails to comply with the seat belt requirement is subject to a forfeiture of not less than \$10 nor more than \$25 for a first violation or, for a second or subsequent violation within three years, a forfeiture of not less than \$25 nor more than \$200.

This bill creates a tiered structure, according to age and size, of restraint requirements for transporting children under the age of eight in a motor vehicle. Under this bill, a child who is:

1. Less than one year old or who weighs less than 20 pounds must be properly restrained in a rear-facing child safety seat in the back seat of the vehicle if the vehicle is equipped with a back seat.

2. At least one year old and weighs at least 20 pounds but is less than four years old or weighs less than 40 pounds must be properly restrained in a forward-facing child safety seat in the back seat of the vehicle if the vehicle is equipped with a back seat.

3. At least four years old but less than eight years old, weighs between 40 and 80 pounds, and is no more than four feet nine inches tall must be properly restrained in a child booster seat positioned according to the child seating requirements described below.

4. Under the age of eight and exceeds the weight or height limits specified in Item 3., above, must be properly restrained by a seat belt (as under current law) and is subject to the child seating requirements specified below.

If a child, because of age, weight, or height, falls into more than one of these categories, the child must be transported according to the requirements of the more protective category. If a vehicle is not equipped with a back seat, the seating position requirement under Items 1. and 2., above, does not apply.

This bill prohibits a person from transporting a child under the age of eight in a motor vehicle unless the child is properly restrained as described above and the restraint system meets the standards established by the Department of Transportation (DOT) and is appropriate to the child's age and size. Certain exceptions that apply under current law continue to apply to these requirements.

Under the bill, the same penalty applies regardless of which specific requirement is violated. A person who fails to comply with any of these requirements is subject to a forfeiture of not less than \$50 nor more than \$75 for a first violation or, for a second or subsequent violation within three years, a forfeiture of not less than \$75 nor more than \$200. However, no forfeiture may be assessed if the vehicle was not equipped with an applicable child safety restraint system at the time of the violation, the person provides proof that, within 30 days after the violation, a child safety restraint system was purchased or leased and properly installed in the vehicle, and the person has not been issued a uniform traffic citation for violation of the child safety restraint system requirements within the immediately preceding three years.

ASSEMBLY BILL 724

The bill also prohibits any person from operating a motor vehicle unless he or she reasonably believes that each child being transported who is at least four years old but less than 12 years old is seated in a designated seating position as follows:

1. In a back seat equipped with a lap belt and shoulder harness, unless each such seat is occupied by a younger or smaller child who is properly restrained.

2. If the vehicle does not have a seat described in Item 1., above, then in a front seat equipped with a lap belt and shoulder harness, unless each such seat is occupied by a younger or smaller child who is properly restrained.

3. If the vehicle does not have a seat described in either Item 1. or 2., above, then in a back seat, unless each such seat is occupied by a younger or smaller child who is properly restrained.

4. If the vehicle does not have a seat described in any of Items 1. to 3., above, then in any seat determined by the vehicle operator to be the safest considering the child's age and size.

These requirements do not apply to a child required to be transported in a rear-facing or forward-facing child safety seat, who, as described above, must be transported in a back seat. Items 1. and 3., above, do not apply if the vehicle is not equipped with a back seat. A person who fails to comply with these requirements is subject to a forfeiture of \$10.

Under current law, with specific exceptions, no person may drive a motor vehicle unless he or she reasonably believes that each passenger between the ages of four and 15 years is properly restrained by a seat belt. No person who is at least four years old may be a passenger in the front seat of a motor vehicle, or in a seat other than the front seat for which a shoulder harness has been installed, unless that person is properly restrained. This bill extends this seat belt requirement to passengers up to the age of 16 years and applies the requirement to passengers in seats other than the front seat for which safety belts are required to be installed.

The bill also requires DOT to develop and administer a program to provide child safety restraint systems to low-income families in this state. To administer the program, DOT must enter into an agreement with Children's Hospital and Health System (CHHS) to provide funds to CHHS to purchase and distribute, through Safe Kids Wisconsin, child safety restraint systems to low-income families in accordance with standards and criteria established by rule by DOT. CHHS must annually submit an audited financial statement of its use of the funds and may not receive funding if it dissolves or loses its tax-exempt status under federal law.

Under current law, fines and forfeitures collected as a result of convictions for state traffic offenses are divided between the collecting local government and the state. Generally, 50 percent of all fines and forfeitures for state traffic offenses is deposited in the common school fund, but a different allocation, involving the deposit of 40 percent of all fines or forfeitures in the transportation fund and ten percent in the common school fund, is made for offenses related to the size, weight, and load of vehicles. This bill requires 50 percent of all forfeitures collected for child safety restraint system violations to be deposited in the transportation fund to be used exclusively for the Child Safety Restraint System Program.

ASSEMBLY BILL 724

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 20.395 (5) (gq) of the statutes is created to read:

2 20.395 (5) (gq) *Child Safety Restraint System Program, state funds.* All moneys
3 received from forfeitures under s. 347.50 (3) (a) allocated to the state, for the purposes
4 specified in s. 85.56.

5 **SECTION 2.** 25.40 (1) (ik) of the statutes is created to read:

6 25.40 (1) (ik) All moneys forwarded by county treasurers from forfeitures under
7 s. 347.50 (3) (a), as provided in s. 59.25 (3) (jm).

8 **SECTION 3.** 59.25 (3) (jm) of the statutes is created to read:

9 59.25 (3) (jm) Forward to the state treasurer for deposit in the transportation
10 fund under s. 25.40 (1) (ik) the 50 percent of the forfeitures under s. 347.50 (3) (a) that
11 is not retained under par. (j).

12 **SECTION 4.** 85.56 of the statutes is created to read:

13 **85.56 Child Safety Restraint System Program.** (1) The department shall
14 develop and administer a program to provide to low-income families in this state
15 child safety restraint systems, including infant and toddler car seats and child
16 booster seats, for the purpose of promoting compliance with the requirements of s.
17 347.48 (4). The department shall adopt rules to implement and administer this
18 section, including standards and criteria for providing low-income families with
19 child safety restraint systems.

20 (2) (a) For purposes of administering the program under sub. (1), the
21 department shall enter into an agreement with Children's Hospital and Health

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1 System, a nonprofit corporation and an organization described in section 501 (c) (3)
2 of the Internal Revenue Code and exempt from federal income tax under section 501
3 (a) of the Internal Revenue Code, to make payments from the appropriation under
4 s. 20.395 (5) (gq) to Children's Hospital and Health System for the purchase and
5 distribution by Safe Kids Wisconsin, led by Children's Hospital and Health System,
6 of child safety restraint systems to low-income families under the standards and
7 criteria established by the department by rule.

8 (b) The agreement under this subsection shall require that Children's Hospital
9 and Health System annually submit to the presiding officer of each house of the
10 legislature an audited financial statement of its use of the payments under this
11 section, prepared in accordance with generally accepted accounting principles.

12 (c) Payments to Children's Hospital and Health System under this section shall
13 be discontinued by the department if either Children's Hospital and Health System
14 or Safe Kids Wisconsin dissolves or is no longer exempt from taxation under section
15 501 (a) of the Internal Revenue Code, and the department shall designate a new
16 recipient for payments under this section, which must be a nonprofit organization
17 with a purpose of promoting child safety and which must comply with any
18 requirement specified in this section for Children's Hospital and Health System or
19 Safe Kids Wisconsin.

20 **SECTION 5.** 343.32 (2) (bt) of the statutes is amended to read:

21 343.32 (2) (bt) The scale adopted by the secretary may not assess any demerit
22 points for a violation of s. 346.922 or 347.48 (2m) (b), (c) or (d) or (4) (a) (am).

23 **SECTION 6.** 347.48 (2m) (c) of the statutes is amended to read:

24 ~~347.48 (2m) (c) If Subject to s. 347.482, if~~ a motor vehicle is required to be
25 equipped with safety belts in this state, no person may operate that motor vehicle

ASSEMBLY BILL 724

SECTION 6

1 unless he or she reasonably believes that each passenger who is at least ~~4~~ 8 years
2 old and not more than ~~15~~ 16 years old and who is seated at a designated seating
3 position in the front seat required under 49 CFR 571 to have a safety belt installed
4 or at a designated seating position in the seats, other than the front seats, for which
5 a ~~shoulder harness has been~~ safety belt is required to be installed is properly
6 restrained.

7 SECTION ~~7~~ 347.48 (2m) (d) of the statutes is amended to read:

8 ~~347.48 (2m) (d)~~ If Subject to s. 347.482, if a motor vehicle is required to be
9 equipped with safety belts in this state, no person who is at least ~~4~~ 8 years old and
10 who is seated at a designated seating position in the front seat required under 49
11 CFR 571 to have a safety belt installed or at a designated seating position in the
12 seats, other than the front seats, for which a ~~shoulder harness has been~~ safety belt
13 is required to be installed may be a passenger in that motor vehicle unless the person
14 is properly restrained.

15 SECTION ~~8~~ 347.48 (4) (a) 1. of the statutes is renumbered 347.48 (4) (am) and
16 amended to read:

17 347.48 (4) (am) ~~No~~ Subject to par. (au), no person may transport a child under
18 the age of ~~4~~ 8 in a motor vehicle unless the child is properly restrained in compliance
19 with par. (as) in a child safety restraint system is approved that is appropriate to the
20 child's age and size and that meets the standards established by the department. ~~In~~
21 ~~this subdivision, "properly restrained" means fastened in a manner prescribed by the~~
22 ~~manufacturer of the system which permits the system to act as a body restraint but~~
23 ~~does not include a system in which the only body restraint is a safety belt of the type~~
24 ~~required under sub. (1) under this paragraph.~~ The department shall, by rule,
25 establish standards in compliance with applicable federal standards, including

ASSEMBLY BILL 724

standards under 49 CFR 571.213, for approved types of child safety restraint systems for those child restraint systems purchased after November 1, 1982.

SECTION 9. 347.48 (4) (a) 2. of the statutes is renumbered 347.48 (4) (as) 4. and amended to read:

347.48 (4) (as) 4. ~~No person may transport a~~ Subject to subds. 1. to 3., if the child who is at least 4 years old but is less than 8 years old in a motor vehicle unless, the child is shall be properly restrained in a child safety restraint system approved by the department under subd. 1. or in a safety belt approved by the department under sub. (2). ~~In this subdivision, "properly restrained" means fastened in a manner prescribed by the manufacturer of the system which permits the system to act as a body restraint, positioned in compliance with s. 347.482.~~ *delete strike* *strike period*

SECTION 10. 347.48 (4) (a) 3. of the statutes is renumbered 347.48 (4) (au), and 347.48 (4) (au) (intro.), as renumbered, is amended to read:

347.48 (4) (au) (intro.) Notwithstanding subds. 1. and 2. pars. (am) and (as), a person other than the operator of a motor vehicle transporting a child required to be properly restrained under subd. 1. or 2. pars. (am) and (as) may temporarily remove a child from a safety restraint system to attend to the personal needs of the child under all of the following conditions:

SECTION 11. 347.48 (4) (ag) of the statutes is created to read:

347.48 (4) (ag) In this subsection:

1. "Child booster seat" means a child passenger restraint system that meets the applicable federal standards under 49 CFR 571.213 and is designed to elevate a child from a vehicle seat to allow the vehicle's safety belt to be properly positioned over the child's body.

2. "Designated seating position" has the meaning given in 49 CFR 571.3.

ASSEMBLY BILL 724

1 3. “Properly restrained” means any of the following:

2 a. With respect to par. (as) 1. and 2., fastened in a manner prescribed by the
3 manufacturer of the child safety restraint system which permits the system to act
4 as a body restraint but does not include a system in which the only body restraint is
5 a safety belt of the type required under sub. (1).

6 b. With respect to par. (as) 3., wearing a safety belt consisting of a combination
7 lap belt and shoulder harness approved by the department under sub. (2) and
8 fastened in a manner prescribed by the manufacturer of the safety belt so that the
9 safety belt properly fits across the child’s lap and the center of the child’s chest in a
10 manner appropriate to the child’s height, weight, and age that permits the safety belt
11 to act as a body restraint.

12 c. With respect to par. (as) 4., fastened in a manner prescribed by the
13 manufacturer of the system which permits the system to act as a body restraint.

14 ~~SECTION 12.~~ 347.48 (4) (as) of the statutes is created to read:

15 347.48 (4) (as) A child under the age of 8 years who is being transported in a
16 motor vehicle shall be restrained as follows:

17 1. If the child is less than one year old or weighs less than 20 pounds, the child
18 shall be properly restrained in a rear-facing child safety restraint system, positioned
19 at a designated seating position in a back passenger seat of the vehicle if the vehicle
20 is equipped with a back passenger seat.

21 2. Subject to subd. 1., if the child is at least one year old and weighs at least 20
22 pounds but is less than 4 years old or weighs less than 40 pounds, the child shall be
23 properly restrained in a forward-facing child safety restraint system, positioned at
24 a designated seating position in a back passenger seat of the vehicle if the vehicle is
25 equipped with a back passenger seat.

ASSEMBLY BILL 724

3. Subject to subds. 1. and 2., if the child is at least 4 years old but less than 8 years old, weighs at least 40 pounds but not more than 80 pounds, and is not more than 57 inches in height, the child shall be properly restrained in a child booster seat,

~~positioned in compliance with s. 347.482.~~

~~SECTION 13.~~ 347.48 (4) (b) of the statutes is amended to read:

347.48 (4) (b) The department may, by rule, exempt from the requirements under ~~par. (a)~~ pars. (am) and (as) any child who because of a physical or medical condition or body size cannot be placed in a child safety restraint system, child booster seat, or safety belt.

~~SECTION 14.~~ 347.48 (4) (d) of the statutes is amended to read:

347.48 (4) (d) Evidence of compliance or failure to comply with ~~par. (a)~~ pars. (am) and (as) is admissible in any civil action for personal injuries or property damage resulting from the use or operation of a motor vehicle but failure to comply with ~~par. (a)~~ pars. (am) and (as) does not by itself constitute negligence.

~~SECTION 15.~~ 347.482 of the statutes is created to read:

347.482 Child seating requirements. (1) In this section, "designated seating position" has the meaning given in 49 CFR 571.3.

(2) Except as provided in s. 347.48 (4) (as) 1. and 2., no person may operate a motor vehicle unless he or she reasonably believes that each passenger who is less than 12 years old is seated as follows:

(a) At a designated seating position in a back passenger seat of the vehicle if the seating position is equipped with a combination lap belt and shoulder harness, unless all such seating positions are occupied by other passengers who are younger or weigh less and who are properly restrained in compliance with s. 347.48 (4).

ASSEMBLY BILL 724

(b) If the vehicle is not equipped with a seating position specified in par. (a), at a designated seating position in a front passenger seat of the vehicle if the seating position is equipped with a combination lap belt and shoulder harness, unless all such seating positions are occupied by other passengers who are younger or weigh less and who are properly restrained in compliance with s. 347.48 (4).

(c) If the vehicle is not equipped with a seating position specified in par. (a) or (b), at a designated seating position in a back passenger seat of the vehicle, unless all such seating positions are occupied by other passengers who are younger or weigh less and who are properly restrained in compliance with s. 347.48 (4).

(d) If the vehicle is not equipped with a seating position specified in par. (a), (b), or (c), at any designated seating position determined by the operator to be the safest seating position considering the age and size of the passenger.

(3) Subsection (2) (a) and (c) does not apply if the vehicle is not equipped with a back passenger seat.

SECTION 16. 347.487 (title) of the statutes is amended to read:

347.487 (title) Seating Motorcycle seating requirements.

SECTION 17. 347.50 (1) of the statutes is amended to read:

347.50 (1) Any person violating ss. 347.35 to 347.49, except s. 347.413 (1) or s. 347.415 (1), (2) and (3) to (5) or s. 347.417 (1) or s. 347.475 or s. 347.48 (2m) or (4) (a) or s. 347.489, may be required to forfeit not less than \$10 nor more than \$200.

SECTION 18. 347.50 (3) (a) of the statutes is amended to read:

347.50 (3) (a) Any person violating s. 347.48 (4) (a) 1. (am) may be required to forfeit not less than \$30 \$50 nor more than \$75. For a 2nd or subsequent conviction within 3 years, a person may be required to forfeit not less than \$75 nor more than \$200.

as affected by
2003 Wisconsin Act 166,

ASSEMBLY BILL 724

SECTION 19. 347.50 (3) (b) of the statutes is amended to read:

347.50 (3) (b) No forfeiture may be assessed under par. (a) if all of the following
apply:

1. The motor vehicle was not equipped with a child safety restraint system meeting the requirements under s. 347.48 (4) ~~(a)-1.~~ (am) at the time the uniform traffic citation was issued; and,

2. The person provides proof that, within 30 days after the uniform traffic citation was issued, a child safety restraint system meeting the requirements under s. 347.48 (4) (a) ~~1.~~ (am) was purchased or leased and properly installed in the motor vehicle.

SECTION 20. 347.50 (3) (b) 3. of the statutes is created to read:

347.50 (3) (b) 3. The person has not, within the immediately preceding 3 years, been issued a uniform traffic citation for a violation of s. 347.48 (4) (am).

SECTION 21. 347.50 (4) of the statutes is repealed.

SECTION 22. Initial applicability.

(1) This act first applies to violations committed on the effective date of this subsection, but does not preclude the counting of other violations as prior violations for purposes of sentencing a person.

SECTION 23. Effective date.

(1) This act takes effect on the first day of the 4th month beginning after publication.

(END)

D-Note

**2003-2004 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-4672/P1ins
ARG:.....

INSERT ANAL-A:

(no #) A person who fails to comply with the child safety seat requirement will also incur additional fees, costs, and surcharges, but a person who fails to comply with the seat belt requirement will not.

INSERT ANAL-B:

(no #) The bill also eliminates the imposition of additional fees, costs, and surcharges for child safety seat violations. For the first six months after enactment of the bill, law enforcement officers may issue only written warnings, not citations, for child safety seat and seat belt violations if the violator has not previously received a warning or citation within this period.

INSERT 5-19:

SECTION 1. 165.755 (1) (b) of the statutes, as affected by 2003 Wisconsin Acts 30, 139, 268, 326, and 327, is amended to read:

165.755 (1) (b) A court may not impose the crime laboratories and drug law enforcement surcharge under par. (a) for a violation of s. 101.123 (2) (a), (am) 1., (ar), (bm), (br), or (bv) or (5) (b), for a first violation of s. 23.33 (4c) (a) 2., 30.681 (1) (b) 1., 346.63 (1) (b), or 350.101 (1) (b), if the person who committed the violation had a blood alcohol concentration of 0.08 or more but less than 0.1 at the time of the violation, or for a violation of a state law or municipal or county ordinance involving a nonmoving traffic violation or a safety belt or restraint use violation under s. 347.48 (2m) or (4).

History: 1997 a. 27; 1999 a. 9, 72; 1999 a. 150 s. 672; 2001 a. 16; 2003 a. 30, 33, 139, 268, 326, 327.

SECTION 2. 302.46 (1) (a) of the statutes, as affected by 2003 Wisconsin Act 30, 139, 268, 326, and 327, is amended to read:

302.46 (1) (a) ~~On or after October 1, 1987, if~~ If a court imposes a fine or forfeiture for a violation of state law or for a violation of a municipal or county ordinance except for a violation of s. 101.123 (2) (a), (am) 1., (ar), (bm), (br), or (bv)

or (5), or for a first violation of s. 23.33 (4c) (a) 2., 30.681 (1) (b) 1., 346.63 (1) (b), or 350.101 (1) (b), if the person who committed the violation had a blood alcohol concentration of 0.08 or more but less than 0.1 at the time of the violation, or for a violation of state laws or municipal or county ordinances involving nonmoving traffic violations or safety belt or restraint use violations under s. 347.48 (2m) or (4), the court, in addition, shall impose a jail surcharge under ch. 814 in an amount of ^{1 percent} ~~1%~~ of the fine or forfeiture imposed or \$10, whichever is greater. If multiple offenses are involved, the court shall determine the jail surcharge on the basis of each fine or forfeiture. If a fine or forfeiture is suspended in whole or in part, the court shall reduce the jail surcharge in proportion to the suspension.

History: 1987 a. 27; 1989 a. 22; 1989 a. 31 s. 1670c, 1670g; Stats. 1989 s. 302.46; 1989 a. 97, 359; 1991 a. 26, 32, 130, 189; 1993 a. 313; 1995 a. 201; 1999 a. 72; 2001 a. 16; 2003 a. 30, 139, 268, 326, 327.

INSERT 11-14:

SECTION 3. 757.05 (1) (a) of the statutes, as affected by 2003 Wisconsin Act ^S 30, 139, 268, 326, and 327, is amended to read:

757.05 (1) (a) Whenever a court imposes a fine or forfeiture for a violation of state law or for a violation of a municipal or county ordinance except for a violation of s. 101.123 (2) (a), (am) 1., (ar), (bm), (br), or (bv) or (5), or for a first violation of s. 23.33 (4c) (a) 2., 30.681 (1) (b) 1., 346.63 (1) (b), or 350.101 (1) (b), if the person who committed the violation had a blood alcohol concentration of 0.08 or more but less than 0.1 at the time of the violation, or for a violation of state laws or municipal or county ordinances involving nonmoving traffic violations or safety belt or restraint use violations under s. 347.48 (2m) or (4), there shall be imposed in addition a penalty surcharge under ch. 814 in an amount of ^{24 percent} ~~24%~~ of the fine or forfeiture imposed. If multiple offenses are involved, the penalty surcharge shall be based upon the total

fine or forfeiture for all offenses. When a fine or forfeiture is suspended in whole or in part, the penalty surcharge shall be reduced in proportion to the suspension.

History: 1999 a. 9 ss. 2292m, 2298, 3050m to 3050o; 1999 a. 72 s. 6; 1999 a. 150 s. 672; 2001 a. 16; 2003 a. 30, 33, 139, 268, 326, 327.

SECTION 4 814.63 (1) (c) of the statutes, as affected by 2003 Wisconsin Act 30, 268, and 327, is amended to read:

814.63 (1) (c) This subsection does not apply to an action for a violation of s. 101.123 (2) (a), (am) 1., (ar), (bm), (br), or (bv) or (5), for a first violation of s. 23.33 (4c) (a) 2., 30.681 (1) (b) 1., 346.63 (1) (b), or 350.101 (1) (b), if the person who committed the violation had a blood alcohol concentration of 0.08 or more but less than 0.1 at the time of the violation, or ~~for a violation of a safety belt or restraint~~ use violation under s. 347.48 (2m) or (4).

History: 1981 c. 317; 1985 a. 36; 1987 a. 27, 399; 1989 a. 22, 31, 64, 97, 107, 359; 1991 a. 26, 39, 130; 1993 a. 16, 167, 313; 1995 a. 27, 227, 349; 1997 a. 27, 248; 1999 a. 9, 72; 2001 a. 16; 2003 a. 30, 33, 139, 268, 327.

SECTION 5 814.63 (2) of the statutes, as affected by 2003 Wisconsin Act 30, is amended to read:

814.63 (2) Upon the disposition of a forfeiture action in circuit court for violation of a county, town, city, village, town sanitary district or public inland lake protection and rehabilitation district ordinance, except for an action for a first violation of s. 23.33 (4c) (a) 2., 30.681 (1) (b) 1., 346.63 (1) (b), or 350.101 (1) (b), if the person who committed the violation had a blood alcohol concentration of 0.08 or more but less than 0.1 at the time of the violation, or for a safety belt or restraint use violation under s. 347.48 (2m) or (4), the county, town, city, village, town sanitary district or public inland lake protection and rehabilitation district shall pay a nonrefundable fee of \$5 to the clerk of circuit court.

History: 1981 c. 317; 1985 a. 36; 1987 a. 27, 399; 1989 a. 22, 31, 64, 97, 107, 359; 1991 a. 26, 39, 130; 1993 a. 16, 167, 313; 1995 a. 27, 227, 349; 1997 a. 27, 248; 1999 a. 9, 72; 2001 a. 16; 2003 a. 30, 33, 139, 268, 327.

SECTION 6 814.65 (1) of the statutes, as affected by 2003 Wisconsin Act 30, 33, and 320, is amended to read:

814.65 (1) COURT COSTS. In a municipal court action, except for an action for a first violation of s. 23.33 (4c) (a) 2., 30.681 (1) (b) 1., 346.63 (1) (b), or 350.101 (1) (b), if the person who committed the violation had a blood alcohol concentration of 0.08 or more but less than 0.1 at the time of the violation, or for a violation of an ordinance in conformity with s. 347.48 (2m) or (4), the municipal judge shall collect a fee of not less than \$15 nor more than \$23 on each separate matter, whether it is on default of appearance, a plea of guilty or no contest, on issuance of a warrant or summons, or the action is tried as a contested matter. Of each fee received by the judge under this subsection, the municipal treasurer shall pay monthly \$5 to the secretary of administration for deposit in the general fund and shall retain the balance for the use of the municipality.

History: 1981 c. 317; 1983 a. 107; 1987 a. 181, 389, 399, 403; 1989 a. 22; 1991 a. 26; 1997 a. 27; 2003 a. 30, 33, 320.

LPS: Keep - do not delete → **SECTION 7.** 814.85 (1) (a) of the statutes, as affected by 2003 Wisconsin Act 30, ~~139, 320, and 326~~, is amended to read: *skt delete comma here though*

814.85 (1) (a) Except for an action for a first violation of s. 23.33 (4c) (a) 2., 30.681 (1) (b) 1., 346.63 (1) (b), or 350.101 (1) (b), if the person who committed the violation had a blood alcohol concentration of 0.08 or more but less than 0.1 at the time of the violation, or for a safety belt or restraint use violation under s. 347.48 (2m) or (4), the clerk of circuit court shall charge and collect a \$68 court support services surcharge from any person, including any governmental unit as defined in s. 108.02 (17), paying a fee under s. 814.61 (1) (a), (3), or (8) (am) or 814.63 (1).

History: 1993 a. 16; 1995 a. 27, 201, 417; 2001 a. 109; 2003 a. 30, 33; 2003 a. 139 ss. 197 to 200; Stats. 2003 s. 814.85; 2003 a. 326.

SECTION 8. 814.86 (1) of the statutes, as affected by 2003 Wisconsin Act 30, ~~139, 320, and 326~~, is amended to read:

814.86 (1) Except for an action for a first violation of s. 23.33 (4c) (a) 2., 30.681 (1) (b) 1., 346.63 (1) (b), or 350.101 (1) (b), if the person who committed the violation

had a blood alcohol concentration of 0.08 or more but less than 0.1 at the time of the violation, or for a safety belt or restraint use violation under s. 347.48 (2m) or (4), the clerk of circuit court shall charge and collect a \$9 justice information system surcharge from any person, including any governmental unit, as defined in s. 108.02 (17), paying a fee under s. 814.61 (1) (a), (3), or (8) (am), 814.62 (1), (2), or (3) (a) or (b), or 814.63 (1). The justice information system surcharge is in addition to the surcharge listed in sub. (1m).

History: 1987 a. 27; 1989 a. 22; 1991 a. 26, 39; 1993 a. 16; 1995 a. 27, 201; 1997 a. 27; 1999 a. 9; 2003 a. 30, 33; 2003 a. 139 s. 201; Stats. 2003 s. 814.86; 2003 a. 326.

SECTION 4. Nonstatutory provisions.

(1) Notwithstanding section 347.50 (1) and (3) (a) of the statutes, as affected by this act, during the period beginning on the effective date of this subsection and ending on the last day of the 6th month beginning after the effective date of this subsection, if a law enforcement officer has probable cause to believe that a person has committed a violation of section 347.48 (2m) or (4) of the statutes, as affected by this act, the law enforcement officer shall issue to the person a written warning, but not a citation, for the violation if the person has not been found to have committed, or received a written warning for, a previous violation during this period. If a law enforcement officer issues a written warning under this subsection, the officer shall forward a copy of the warning to the department of transportation, which shall maintain a record of the warning in the person's file under section 343.23 (2) (a) of the statutes until the last day of the 6th month beginning after the effective date of this subsection.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

November 13, 2003 *Date*

4672/P1dn
LRB-1094/2dn

ARG: *kg:pg*

Katie Scott

ATTN: ~~Kathy Marschman~~

Please review this redraft carefully to ensure that it is consistent with your intent. The content of the bill has changed significantly from the "/1" version.

Rather than continuing the seemingly outdated language of requiring child safety seats to be "approved" by DOT, the attached draft requires child safety seats to comply with the standards established by DOT. Is this okay? The draft, however, does not attempt to revise existing statutory language related to DOT approving types of seat belts. It is my understanding that DOT's "approval" is basically just a matter of incorporating federal standards.

I also added s. 347.50 (3)(b) 3. Is this okay?

3 Article X, section 2, of the Wisconsin Constitution requires the proceeds of fines and forfeitures to be deposited in the common school fund. Although there is precedent for allocating some of these fines and forfeitures to the transportation fund (that is, the ch. 348 violations), such allocation may be subject to constitutional challenge. ~~As we discussed,~~ an alternative funding mechanism may be to create a special assessment related to child restraint violations.

Aaron R. Gary
Legislative Attorney
Phone: (608) 261-6926
E-mail: aaron.gary@legis.state.wi.us

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

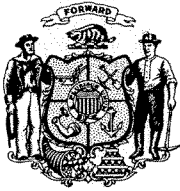
LRB-4672/P1dn
ARG:kmg&kjf:jf

August 19, 2004

ATTN: Katie Scott

Article X, section 2, of the Wisconsin Constitution requires the proceeds of fines and forfeitures to be deposited in the common school fund. Although there is precedent for allocating some of these fines and forfeitures to the transportation fund (that is, the ch. 348 violations), such allocation may be subject to constitutional challenge. An alternative funding mechanism may be to create a special assessment related to child restraint violations.

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State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-4672/P1
ARG:kmg&kjf:jf

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT** *to repeal* 347.50 (4); *to renumber and amend* 347.48 (4) (a) 1., 347.48
2 (4) (a) 2. and 347.48 (4) (a) 3.; *to amend* 165.755 (1) (b), 302.46 (1) (a), 343.32
3 (2) (bt), 347.48 (2m) (c), 347.48 (2m) (d), 347.48 (4) (b), 347.48 (4) (d), 347.50 (1),
4 347.50 (3) (a), 347.50 (3) (b), 757.05 (1) (a), 814.63 (1) (c), 814.63 (2), 814.65 (1),
5 814.85 (1) (a) and 814.86 (1); and *to create* 20.395 (5) (gq), 25.40 (1) (ik), 59.25
6 (3) (jm), 85.56, 347.48 (4) (ag), 347.48 (4) (as) and 347.50 (3) (b) 3. of the statutes;
7 **relating to:** child safety restraint systems, safety belt use requirements in
8 motor vehicles, creating a Child Safety Restraint System Program, granting
9 rule-making authority, making an appropriation, and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, with certain exceptions, no child under the age of four years may be transported in a motor vehicle unless that child is properly restrained in a child safety restraint system (child safety seat), and no child between the ages of four and eight years may be transported in a motor vehicle unless that child is properly restrained in a child safety seat or by a safety belt (seat belt). A person who fails to comply with the child safety seat requirement is subject to a forfeiture of not less than \$30 nor more than \$75, but no forfeiture may be assessed if the vehicle was not

equipped with a child safety seat at the time of the violation and the person provides proof that, within 30 days after the violation, a child safety seat was purchased or leased and properly installed in the vehicle. A person who fails to comply with the seat belt requirement is subject to a forfeiture of not less than \$10 nor more than \$25 for a first violation or, for a second or subsequent violation within three years, a forfeiture of not less than \$25 nor more than \$200. A person who fails to comply with the child safety seat requirement will also incur additional fees, costs, and surcharges, but a person who fails to comply with the seat belt requirement will not.

This bill creates a tiered structure, according to age and size, of restraint requirements for transporting children under the age of eight in a motor vehicle. Under this bill, a child who is:

1. Less than one year old or who weighs less than 20 pounds must be properly restrained in a rear-facing child safety seat in the back seat of the vehicle if the vehicle is equipped with a back seat.

2. At least one year old and weighs at least 20 pounds but is less than four years old or weighs less than 40 pounds must be properly restrained in a forward-facing child safety seat in the back seat of the vehicle if the vehicle is equipped with a back seat.

3. At least four years old but less than eight years old, weighs between 40 and 80 pounds, and is no more than four feet nine inches tall must be properly restrained in a child booster seat positioned according to the child seating requirements described below.

4. Under the age of eight and exceeds the weight or height limits specified in Item 3., above, must be properly restrained by a seat belt (as under current law).

If a child, because of age, weight, or height, falls into more than one of these categories, the child must be transported according to the requirements of the more protective category.

This bill prohibits a person from transporting a child under the age of eight in a motor vehicle unless the child is properly restrained as described above and the restraint system meets the standards established by the Department of Transportation (DOT) and is appropriate to the child's age and size. Certain exceptions that apply under current law continue to apply to these requirements.

Under the bill, the same penalty applies regardless of which specific requirement is violated. A person who fails to comply with any of these requirements is subject to a forfeiture of not less than \$50 nor more than \$75 for a first violation or, for a second or subsequent violation within three years, a forfeiture of not less than \$75 nor more than \$200. However, no forfeiture may be assessed if the vehicle was not equipped with an applicable child safety restraint system at the time of the violation, the person provides proof that, within 30 days after the violation, a child safety restraint system was purchased or leased and properly installed in the vehicle, and the person has not been issued a uniform traffic citation for violation of the child safety restraint system requirements within the immediately preceding three years. The bill also eliminates the imposition of additional fees, costs, and surcharges for child safety seat violations. For the first six months after enactment of the bill, law enforcement officers may issue only written warnings, not citations,

for child safety seat and seat belt violations if the violator has not previously received a warning or citation within this period.

Under current law, with specific exceptions, no person may drive a motor vehicle unless he or she reasonably believes that each passenger between the ages of four and 15 years is properly restrained by a seat belt. No person who is at least four years old may be a passenger in the front seat of a motor vehicle, or in a seat other than the front seat for which a shoulder harness has been installed, unless that person is properly restrained. This bill extends this seat belt requirement to passengers up to the age of 16 years and applies the requirement to passengers in seats other than the front seat for which safety belts are required to be installed.

The bill also requires DOT to develop and administer a program to provide child safety restraint systems to low-income families in this state. To administer the program, DOT must enter into an agreement with Children's Hospital and Health System (CHHS) to provide funds to CHHS to purchase and distribute, through Safe Kids Wisconsin, child safety restraint systems to low-income families in accordance with standards and criteria established by rule by DOT. CHHS must annually submit an audited financial statement of its use of the funds and may not receive funding if it dissolves or loses its tax-exempt status under federal law.

Under current law, fines and forfeitures collected as a result of convictions for state traffic offenses are divided between the collecting local government and the state. Generally, 50 percent of all fines and forfeitures for state traffic offenses is deposited in the common school fund, but a different allocation, involving the deposit of 40 percent of all fines or forfeitures in the transportation fund and ten percent in the common school fund, is made for offenses related to the size, weight, and load of vehicles. This bill requires 50 percent of all forfeitures collected for child safety restraint system violations to be deposited in the transportation fund to be used exclusively for the Child Safety Restraint System Program.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 20.395 (5) (gq) of the statutes is created to read:

2 20.395 (5) (gq) *Child Safety Restraint System Program, state funds.* All moneys
3 received from forfeitures under s. 347.50 (3) (a) allocated to the state, for the purposes
4 specified in s. 85.56.

5 **SECTION 2.** 25.40 (1) (ik) of the statutes is created to read:

1 25.40 (1) (ik) All moneys forwarded by county treasurers from forfeitures under
2 s. 347.50 (3) (a), as provided in s. 59.25 (3) (jm).

3 **SECTION 3.** 59.25 (3) (jm) of the statutes is created to read:

4 59.25 (3) (jm) Forward to the state treasurer for deposit in the transportation
5 fund under s. 25.40 (1) (ik) the 50 percent of the forfeitures under s. 347.50 (3) (a) that
6 is not retained under par. (j).

7 **SECTION 4.** 85.56 of the statutes is created to read:

8 **85.56 Child Safety Restraint System Program.** (1) The department shall
9 develop and administer a program to provide to low-income families in this state
10 child safety restraint systems, including infant and toddler car seats and child
11 booster seats, for the purpose of promoting compliance with the requirements of s.
12 347.48 (4). The department shall adopt rules to implement and administer this
13 section, including standards and criteria for providing low-income families with
14 child safety restraint systems.

15 (2) (a) For purposes of administering the program under sub. (1), the
16 department shall enter into an agreement with Children's Hospital and Health
17 System, a nonprofit corporation and an organization described in section 501 (c) (3)
18 of the Internal Revenue Code and exempt from federal income tax under section 501
19 (a) of the Internal Revenue Code, to make payments from the appropriation under
20 s. 20.395 (5) (gq) to Children's Hospital and Health System for the purchase and
21 distribution by Safe Kids Wisconsin, led by Children's Hospital and Health System,
22 of child safety restraint systems to low-income families under the standards and
23 criteria established by the department by rule.

24 (b) The agreement under this subsection shall require that Children's Hospital
25 and Health System annually submit to the presiding officer of each house of the

1 legislature an audited financial statement of its use of the payments under this
2 section, prepared in accordance with generally accepted accounting principles.

3 (c) Payments to Children's Hospital and Health System under this section shall
4 be discontinued by the department if either Children's Hospital and Health System
5 or Safe Kids Wisconsin dissolves or is no longer exempt from taxation under section
6 501 (a) of the Internal Revenue Code, and the department shall designate a new
7 recipient for payments under this section, which must be a nonprofit organization
8 with a purpose of promoting child safety and which must comply with any
9 requirement specified in this section for Children's Hospital and Health System or
10 Safe Kids Wisconsin.

11 **SECTION 5.** 165.755 (1) (b) of the statutes, as affected by 2003 Wisconsin Acts
12 30, 139, 268, 326 and 327, is amended to read:

13 165.755 (1) (b) A court may not impose the crime laboratories and drug law
14 enforcement surcharge under par. (a) for a violation of s. 101.123 (2) (a), (am) 1., (ar),
15 (bm), (br), or (bv) or (5) (b), for a first violation of s. 23.33 (4c) (a) 2., 30.681 (1) (b) 1.,
16 346.63 (1) (b), or 350.101 (1) (b), if the person who committed the violation had a blood
17 alcohol concentration of 0.08 or more but less than 0.1 at the time of the violation,
18 or for a violation of a state law or municipal or county ordinance involving a
19 nonmoving traffic violation or a safety belt or restraint use violation under s. 347.48
20 (2m) or (4).

21 **SECTION 6.** 302.46 (1) (a) of the statutes, as affected by 2003 Wisconsin Acts 30,
22 139, 268, 326 and 327, is amended to read:

23 302.46 (1) (a) ~~On or after October 1, 1987, if~~ If a court imposes a fine or
24 forfeiture for a violation of state law or for a violation of a municipal or county
25 ordinance except for a violation of s. 101.123 (2) (a), (am) 1., (ar), (bm), (br), or (bv)

1 or (5), or for a first violation of s. 23.33 (4c) (a) 2., 30.681 (1) (b) 1., 346.63 (1) (b), or
2 350.101 (1) (b), if the person who committed the violation had a blood alcohol
3 concentration of 0.08 or more but less than 0.1 at the time of the violation, or for a
4 violation of state laws or municipal or county ordinances involving nonmoving traffic
5 violations or safety belt or restraint use violations under s. 347.48 (2m) or (4), the
6 court, in addition, shall impose a jail surcharge under ch. 814 in an amount of ~~1%~~ 1
7 percent of the fine or forfeiture imposed or \$10, whichever is greater. If multiple
8 offenses are involved, the court shall determine the jail surcharge on the basis of each
9 fine or forfeiture. If a fine or forfeiture is suspended in whole or in part, the court
10 shall reduce the jail surcharge in proportion to the suspension.

11 **SECTION 7.** 343.32 (2) (bt) of the statutes is amended to read:

12 343.32 (2) (bt) The scale adopted by the secretary may not assess any demerit
13 points for a violation of s. 346.922 or 347.48 (2m) (b), (c) or (d) or (4) ~~(a)~~ (am).

14 **SECTION 8.** 347.48 (2m) (c) of the statutes is amended to read:

15 347.48 (2m) (c) If a motor vehicle is required to be equipped with safety belts
16 in this state, no person may operate that motor vehicle unless he or she reasonably
17 believes that each passenger who is at least ~~4~~ 8 years old and not more than ~~15~~ 16
18 years old and who is seated at a designated seating position in the front seat required
19 under 49 CFR 571 to have a safety belt installed or at a designated seating position
20 in the seats, other than the front seats, for which a ~~shoulder harness has been~~ safety
21 belt is required to be installed is properly restrained.

22 **SECTION 9.** 347.48 (2m) (d) of the statutes is amended to read:

23 347.48 (2m) (d) If a motor vehicle is required to be equipped with safety belts
24 in this state, no person who is at least ~~4~~ 8 years old and who is seated at a designated
25 seating position in the front seat required under 49 CFR 571 to have a safety belt

1 installed or at a designated seating position in the seats, other than the front seats,
2 for which a ~~shoulder harness has been~~ safety belt is required to be installed may be
3 a passenger in that motor vehicle unless the person is properly restrained.

4 **SECTION 10.** 347.48 (4) (a) 1. of the statutes is renumbered 347.48 (4) (am) and
5 amended to read:

6 347.48 (4) (am) ~~No~~ Subject to par. (au), no person may transport a child under
7 the age of ~~4~~ 8 in a motor vehicle unless the child is ~~properly restrained in compliance~~
8 with par. (as) in a child safety restraint system is approved that is appropriate to the
9 child's age and size and that meets the standards established by the department. ~~In~~
10 this subdivision, "properly restrained" means fastened in a manner prescribed by the
11 manufacturer of the system which permits the system to act as a body restraint but
12 does not include a system in which the only body restraint is a safety belt of the type
13 required under sub. (1) under this paragraph. The department shall, by rule,
14 establish standards in compliance with applicable federal standards, including
15 standards under 49 CFR 571.213, for approved types of child safety restraint
16 systems for those child restraint systems purchased after November 1, 1982.

17 **SECTION 11.** 347.48 (4) (a) 2. of the statutes is renumbered 347.48 (4) (as) 4. and
18 amended to read:

19 347.48 (4) (as) 4. ~~No person may transport a~~ Subject to subds. 1. to 3., if the
20 ~~child who is at least 4 years old but is less than 8 years old in a motor vehicle unless,~~
21 ~~the child is~~ shall be properly restrained in a ~~child safety restraint system approved~~
22 ~~by the department under subd. 1. or in a~~ safety belt approved by the department
23 under sub. (2). ~~In this subdivision, "properly restrained" means fastened in a~~
24 ~~manner prescribed by the manufacturer of the system which permits the system to~~
25 ~~act as a body restraint.~~

1 **SECTION 12.** 347.48 (4) (a) 3. of the statutes is renumbered 347.48 (4) (au), and
2 347.48 (4) (au) (intro.), as renumbered, is amended to read:

3 347.48 (4) (au) (intro.) Notwithstanding ~~subds. 1. and 2. pars. (am) and (as),~~
4 a person other than the operator of a motor vehicle transporting a child required to
5 be properly restrained under ~~subd. 1. or 2. pars. (am) and (as)~~ may temporarily
6 remove a child from a safety restraint system to attend to the personal needs of the
7 child under all of the following conditions:

8 **SECTION 13.** 347.48 (4) (ag) of the statutes is created to read:

9 347.48 (4) (ag) In this subsection:

10 1. “Child booster seat” means a child passenger restraint system that meets the
11 applicable federal standards under 49 CFR 571.213 and is designed to elevate a child
12 from a vehicle seat to allow the vehicle’s safety belt to be properly positioned over the
13 child’s body.

14 2. “Designated seating position” has the meaning given in 49 CFR 571.3.

15 3. “Properly restrained” means any of the following:

16 a. With respect to par. (as) 1. and 2., fastened in a manner prescribed by the
17 manufacturer of the child safety restraint system which permits the system to act
18 as a body restraint but does not include a system in which the only body restraint is
19 a safety belt of the type required under sub. (1).

20 b. With respect to par. (as) 3., wearing a safety belt consisting of a combination
21 lap belt and shoulder harness approved by the department under sub. (2) and
22 fastened in a manner prescribed by the manufacturer of the safety belt so that the
23 safety belt properly fits across the child’s lap and the center of the child’s chest in a
24 manner appropriate to the child’s height, weight, and age that permits the safety belt
25 to act as a body restraint.

1 c. With respect to par. (as) 4., fastened in a manner prescribed by the
2 manufacturer of the system which permits the system to act as a body restraint.

3 **SECTION 14.** 347.48 (4) (as) of the statutes is created to read:

4 347.48 (4) (as) A child under the age of 8 years who is being transported in a
5 motor vehicle shall be restrained as follows:

6 1. If the child is less than one year old or weighs less than 20 pounds, the child
7 shall be properly restrained in a rear-facing child safety restraint system, positioned
8 at a designated seating position in a back passenger seat of the vehicle if the vehicle
9 is equipped with a back passenger seat.

10 2. Subject to subd. 1., if the child is at least one year old and weighs at least 20
11 pounds but is less than 4 years old or weighs less than 40 pounds, the child shall be
12 properly restrained in a forward-facing child safety restraint system, positioned at
13 a designated seating position in a back passenger seat of the vehicle if the vehicle is
14 equipped with a back passenger seat.

15 3. Subject to subds. 1. and 2., if the child is at least 4 years old but less than 8
16 years old, weighs at least 40 pounds but not more than 80 pounds, and is not more
17 than 57 inches in height, the child shall be properly restrained in a child booster seat.

18 **SECTION 15.** 347.48 (4) (b) of the statutes is amended to read:

19 347.48 (4) (b) The department may, by rule, exempt from the requirements
20 under ~~par. (a)~~ pars. (am) and (as) any child who because of a physical or medical
21 condition or body size cannot be placed in a child safety restraint system, child
22 booster seat, or safety belt.

23 **SECTION 16.** 347.48 (4) (d) of the statutes is amended to read:

24 347.48 (4) (d) Evidence of compliance or failure to comply with ~~par. (a)~~ pars.
25 (am) and (as) is admissible in any civil action for personal injuries or property

1 damage resulting from the use or operation of a motor vehicle but failure to comply
2 with ~~par. (a)~~ pars. (am) and (as) does not by itself constitute negligence.

3 **SECTION 17.** 347.50 (1) of the statutes, as affected by 2003 Wisconsin Act 166,
4 is amended to read:

5 347.50 (1) Any person violating ss. 347.35 to 347.49, except s. 347.413 (1) or s.
6 347.415 (1m), (2) and (3) to (5) or s. 347.417 (1) or s. 347.475 or s. 347.48 (2m) or (4)
7 (a) or s. 347.489, may be required to forfeit not less than \$10 nor more than \$200.

8 **SECTION 18.** 347.50 (3) (a) of the statutes is amended to read:

9 347.50 (3) (a) Any person violating s. 347.48 (4) (a) ~~1.~~ (am) may be required to
10 forfeit not less than \$30 \$50 nor more than \$75. For a 2nd or subsequent conviction
11 within 3 years, a person may be required to forfeit not less than \$75 nor more than
12 \$200.

13 **SECTION 19.** 347.50 (3) (b) of the statutes is amended to read:

14 347.50 (3) (b) No forfeiture may be assessed under par. (a) if all of the following
15 apply:

16 1. The motor vehicle was not equipped with a child safety restraint system
17 meeting the requirements under s. 347.48 (4) (a) ~~1.~~ (am) at the time the uniform
18 traffic citation was issued; ~~and,~~

19 2. The person provides proof that, within 30 days after the uniform traffic
20 citation was issued, a child safety restraint system meeting the requirements under
21 s. 347.48 (4) (a) ~~1.~~ (am) was purchased or leased and properly installed in the motor
22 vehicle.

23 **SECTION 20.** 347.50 (3) (b) 3. of the statutes is created to read:

24 347.50 (3) (b) 3. The person has not, within the immediately preceding 3 years,
25 been issued a uniform traffic citation for a violation of s. 347.48 (4) (am).

1 **SECTION 21.** 347.50 (4) of the statutes is repealed.

2 **SECTION 22.** 757.05 (1) (a) of the statutes, as affected by 2003 Wisconsin Acts
3 30, 139, 268, 326 and 327, is amended to read:

4 757.05 (1) (a) Whenever a court imposes a fine or forfeiture for a violation of
5 state law or for a violation of a municipal or county ordinance except for a violation
6 of s. 101.123 (2) (a), (am) 1., (ar), (bm), (br), or (bv) or (5), or for a first violation of s.
7 23.33 (4c) (a) 2., 30.681 (1) (b) 1., 346.63 (1) (b), or 350.101 (1) (b), if the person who
8 committed the violation had a blood alcohol concentration of 0.08 or more but less
9 than 0.1 at the time of the violation, or for a violation of state laws or municipal or
10 county ordinances involving nonmoving traffic violations or safety belt or restraint
11 use violations under s. 347.48 (2m) or (4), there shall be imposed in addition a penalty
12 surcharge under ch. 814 in an amount of ~~24%~~ 24 percent of the fine or forfeiture
13 imposed. If multiple offenses are involved, the penalty surcharge shall be based upon
14 the total fine or forfeiture for all offenses. When a fine or forfeiture is suspended in
15 whole or in part, the penalty surcharge shall be reduced in proportion to the
16 suspension.

17 **SECTION 23.** 814.63 (1) (c) of the statutes, as affected by 2003 Wisconsin Acts
18 30, 268 and 327, is amended to read:

19 814.63 (1) (c) This subsection does not apply to an action for a violation of s.
20 101.123 (2) (a), (am) 1., (ar), (bm), (br), or (bv) or (5), for a first violation of s. 23.33
21 (4c) (a) 2., 30.681 (1) (b) 1., 346.63 (1) (b), or 350.101 (1) (b), if the person who
22 committed the violation had a blood alcohol concentration of 0.08 or more but less
23 than 0.1 at the time of the violation, or ~~for a violation of a safety belt~~ or restraint use
24 violation under s. 347.48 (2m) or (4).

1 **SECTION 24.** 814.63 (2) of the statutes, as affected by 2003 Wisconsin Act 30,
2 is amended to read:

3 814.63 (2) Upon the disposition of a forfeiture action in circuit court for
4 violation of a county, town, city, village, town sanitary district or public inland lake
5 protection and rehabilitation district ordinance, except for an action for a first
6 violation of s. 23.33 (4c) (a) 2., 30.681 (1) (b) 1., 346.63 (1) (b), or 350.101 (1) (b), if the
7 person who committed the violation had a blood alcohol concentration of 0.08 or more
8 but less than 0.1 at the time of the violation, or for a safety belt or restraint use
9 violation under s. 347.48 (2m) or (4), the county, town, city, village, town sanitary
10 district or public inland lake protection and rehabilitation district shall pay a
11 nonrefundable fee of \$5 to the clerk of circuit court.

12 **SECTION 25.** 814.65 (1) of the statutes, as affected by 2003 Wisconsin Acts 30,
13 33 and 320, is amended to read:

14 814.65 (1) COURT COSTS. In a municipal court action, except for an action for
15 a first violation of s. 23.33 (4c) (a) 2., 30.681 (1) (b) 1., 346.63 (1) (b), or 350.101 (1)
16 (b), if the person who committed the violation had a blood alcohol concentration of
17 0.08 or more but less than 0.1 at the time of the violation, or for a violation of an
18 ordinance in conformity with s. 347.48 (2m) or (4), the municipal judge shall collect
19 a fee of not less than \$15 nor more than \$23 on each separate matter, whether it is
20 on default of appearance, a plea of guilty or no contest, on issuance of a warrant or
21 summons, or the action is tried as a contested matter. Of each fee received by the
22 judge under this subsection, the municipal treasurer shall pay monthly \$5 to the
23 secretary of administration for deposit in the general fund and shall retain the
24 balance for the use of the municipality.

1 **SECTION 26.** 814.85 (1) (a) of the statutes, as affected by 2003 Wisconsin Acts
2 30, 33, 139, 320 and 326, is amended to read:

3 814.85 (1) (a) Except for an action for a first violation of s. 23.33 (4c) (a) 2.,
4 30.681 (1) (b) 1., 346.63 (1) (b), or 350.101 (1) (b), if the person who committed the
5 violation had a blood alcohol concentration of 0.08 or more but less than 0.1 at the
6 time of the violation, or for a safety belt or restraint use violation under s. 347.48 (2m)
7 or (4), the clerk of circuit court shall charge and collect a \$68 court support services
8 surcharge from any person, including any governmental unit as defined in s. 108.02
9 (17), paying a fee under s. 814.61 (1) (a), (3), or (8) (am) or 814.63 (1).

10 **SECTION 27.** 814.86 (1) of the statutes, as affected by 2003 Wisconsin Acts 30,
11 139 and 326, is amended to read:

12 814.86 (1) Except for an action for a first violation of s. 23.33 (4c) (a) 2., 30.681
13 (1) (b) 1., 346.63 (1) (b), or 350.101 (1) (b), if the person who committed the violation
14 had a blood alcohol concentration of 0.08 or more but less than 0.1 at the time of the
15 violation, or for a safety belt or restraint use violation under s. 347.48 (2m) or (4), the
16 clerk of circuit court shall charge and collect a \$9 justice information system
17 surcharge from any person, including any governmental unit, as defined in s. 108.02
18 (17), paying a fee under s. 814.61 (1) (a), (3), or (8) (am), 814.62 (1), (2), or (3) (a) or
19 (b), or 814.63 (1). The justice information system surcharge is in addition to the
20 surcharge listed in sub. (1m).

21 **SECTION 1. Nonstatutory provisions.**

22 (1) Notwithstanding section 347.50 (1) and (3) (a) of the statutes, as affected
23 by this act, during the period beginning on the effective date of this subsection and
24 ending on the last day of the 6th month beginning after the effective date of this
25 subsection, if a law enforcement officer has probable cause to believe that a person

SECTION 1

1 has committed a violation of section 347.48 (2m) or (4) of the statutes, as affected by
2 this act, the law enforcement officer shall issue to the person a written warning, but
3 not a citation, for the violation if the person has not been found to have committed,
4 or received a written warning for, a previous violation during this period. If a law
5 enforcement officer issues a written warning under this subsection, the officer shall
6 forward a copy of the warning to the department of transportation, which shall
7 maintain a record of the warning in the person's file under section 343.23 (2) (a) of
8 the statutes until the last day of the 6th month beginning after the effective date of
9 this subsection.

SECTION 28. Initial applicability.

11 (1) This act first applies to violations committed on the effective date of this
12 subsection, but does not preclude the counting of other violations as prior violations
13 for purposes of sentencing a person.

SECTION 29. Effective date.

15 (1) This act takes effect on the first day of the 4th month beginning after
16 publication.

17 (END)